

November 1, 2010 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Monday, November 1, 2010 at 6:00 P.M.

Council President Christopher T. Semonelli, Presiding

Vice Chairman Richard Cambra

Councillor Frank A. Bozyan

Councillor M. Theresa Santos

Councillor Edward J. Silveira, Jr.

Councillor Robert J. Sylvia

Councillor Barbara A. VonVillas, Members Present

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2.,42-46-4., and 42-46-5. (a) (5) Land Acquisition (The Valley), (5) lease (JFK School), (2) Collective Bargaining (Police, Fire, Public Works and Town Hall Unions), (1) Personnel (Tax Assessor, Building & Zoning Official, Finance Director, Accounting Manager, Town Clerk, DPW Director, Senior Citizens Director and Recycling Coordinator) and (5) lease (Crown Castle Cell Tower).

Councillor Silveira noted that after discussion with Councillor Sylvia the personnel matters, with the exception of the Tax Assessor, is to be handled in open session.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to suspend the Council rules and move the executive session discussion concerning personnel, minus the Tax Assessor discussion, be addressed during the regular portion of the agenda.

On motion of Vice Chairman Cambra, duly seconded, it was voted

unanimously to recess this meeting at 6:01 P.M. and reconvene in executive session.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reconvene this meeting in open session at 6:40 P.M.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7.

Councillor Bozyan moved to reconsider item #6 - Memorandum of Councillor Silveira, re: Formation of a Charter Review Commission from the October 18, 2010 Regular Meeting, duly seconded, it was voted unanimously to reconsider the matter.

Councillor Bozyan explained that the Charter is to be reviewed every five to ten years; the Charter was reviewed two years ago. Mr. Bozyan expressed concern that the request contained specific goals

and the matter should be reviewed by the incoming Council.

Town Clerk read motion from the October 18, 2010 meeting entered here:

Councillor Silveira noted that the four specific points will be the decision of the Charter Commission and a review of the Charter should be completed.

Councillor VonVillas explained that there were only a few suggestions by the last Charter Review Commission, which were rejected by the Town Council and supports the review of the charter.

Councillor Santos expressed concern with local contractors being awarded Town bids.

Vice Chairman Cambra questioned the bid process.

Town Administrator Shawn Brown, responding to Vice Chairman Cambra, explained the process noting there is no local preference; it is awarded to the lowest responsible offer and the greatest value for the taxpayer.

Councillor Sylvia noted his agreement with Councillor Bozyan, that the matter should be delayed and considered by the next Council.

Vice Chairman Cambra, Council President Semonelli and Councillor VonVillas noted their agreement with Councillor Sylvia and Councillor Bozyan.

On motion of Councillor Silveira, duly seconded, it was voted to support the motion put forth on October 18, 2010; Councillor Santos and Silveira voted YES; Council President Semonelli, Vice Chairman Cambra, Councillors Bozyan, Sylvia and VonVillas voted NO; MOTION

FAILED TO PASS.

CONSENT CALENDAR

1. Approval of Minutes – Regular Meeting, October 18, 2010.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

2. Resolution of the Council, re: Proclaiming the month of November 2010 as National American Indian Heritage Month.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

3. Memorandum of Town Administrator, re: Power to Close Roads.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

4. Application for a Special Event Permit received from Tobin Deveau for a Wedding Ceremony to be held at Dunlap-Wheeler Park on October 1, 2011 at 5:30 pm.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said special event permit.

5. Application for Special Event Permit received from the Newport Running Club for the Newport Fed Pie Run beginning at the YMCA to Sachuest Beach and return – 5 mile road race on November 25, 2010 at 8:30 am to 10:00 am.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said special event permit.

6. Application of 7-Eleven, Inc. dba 7-Eleven #26211J, 939 West Main Road, for RENEWAL of Victualling House License for the 2010-2011 licensing year.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license, contingent on Building Official, Fire Marshal, Board of Health and Public Works approvals.

7. Application of 7-Eleven, Inc. dba 7-Eleven #26211J, 939 West Main Road, for RENEWAL of Victualling House License – Additional Hours of Operation for the 2010-2011 licensing year. (Requires Advertising for Public Hearing)

On motion of Vice Chairman Cambra, duly seconded, it was voted

unanimously to advertise said license renewal application for a public hearing to be held at the December 6, 2010 regular meeting of the Council.

TOWN COUNCIL

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to suspend the Council rules and move item #7 to the beginning of the agenda.

1. Item #7 - Memorandum of Councillor Sylvia, re: Senior Citizens Center – Safety Issue.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

Councillor Sylvia read his memorandum entered here:

Councillor Santos suggested that the entire ramp be covered.

Councillor Silveira suggested the matter be forwarded to the administration to obtain quotes and have the project completed as soon as possible.

Vice Chairman Cambra noted his agreement that the project should be done as soon as possible.

On motion of Councillor Sylvia, duly seconded, it was voted to allocate funds for the Senior Citizens Center project; Councillor Silveira voted NO to said motion.

Item - #2 is Personnel from the Executive Session

2. Personnel - Building & Zoning Official, Finance Director, Accounting Manager, Town Clerk, DPW Director, Senior Citizens Director and Recycling Coordinator

Councillor Sylvia explained that the item was placed on the Executive Session and moved to the regular docket. Mr. Sylvia noted that the employees of the Town are valuable assets; all do excellent jobs and in his opinion are not compensated properly. The issue is not job performance; it is what is fair and within the means for compensation of the jobs in Town government. Mr. Sylvia explained that he had done research all Town positions concerning compensation and found some jobs are not properly compensated. The entire package will cost \$19,000.

Town Administrator Shawn Brown reviewed his findings from the memorandum entered here:

Councillor Sylvia identified all the jobs explaining it is the position,

not the person. The increase will bring all to the mean and will go into effect the first payroll in January.

Councillor Silveira noted his agreement, however; is concerned with the matter being done at the last meeting of the Council. Mr. Silveira explained that the matter should be reviewed during the budget process, noting that he will not support this matter.

Council President Semonelli noted his support in the matter and feels it is an appropriate time to consider.

Councillor VonVillas noted she is uncomfortable and agrees with Councillor Silveira. Ms. VonVillas explained that she would support raises, retroactive to January 1st at the proper time, noting she does not want to increase the current budget.

Councillor Bozyan explained that he does not like taking \$19,000 out of the budget, however; there has been money saved from other

projects which may be redirected.

Councillor Santos noted that Councillor Sylvia and she did not approve the FY2011 budgets. The Town has spent a lot of money on consultants and \$19,000 for good employees starting in January, she will support.

Antone Viveiros, 110 Indian Hill Road, expressed concern that this item was not currently on the agenda and the increases were not in the original budget.

On motion of Councillor VonVillas, duly seconded, it was voted to table the matter; Councillor VonVillas and Councillor Silveira voted YES; Council President Semonelli, Vice Chairman Cambra, Councillors Bozyan, Santos and Sylvia voted NO to said motion; MOTION FAILED TO PASS.

Charlie Vaillancourt, Wyndham Hill Road, addressed the Council

noting that the matter is not appropriate to address, due to the matter not being advertised.

Town Solicitor Michael W. Miller explained the matter was on the docket in the executive session, then moved to open session and finds no problem acting on the matter.

Councillor Santos noted that she has changed her mind and will not support this matter.

Vice Chairman Cambra noted that he will not support this matter.

Councillor Silveira and Councillor VonVillas request the Town Administrator review the matter and return to the next Council.

On motion of Councillor Sylvia, duly seconded, it was voted to

approve salary increases for Building & Zoning Official, Finance Director, Accounting Manager, Town Clerk, DPW Director, Senior Citizens Director and Recycling Coordinator; Council President Semonelli, Councillor Bozyan and Councillor Sylvia voted YES; Vice Chairman Cambra and Councillors Santos, Silveira and VonVillas voted NO to said motion; MOTION FAILED TO PASS.

3. Memorandum of Council President, with enclosures, re: Multi-City Chocolate Drive for the Troops.

Councillor Silveira noted that the troops have a wish list, which he read, requesting hard candy and chewing gum.

Council President Semonelli reviewed a blog explaining that Tiverton, Rhode Island Middle School and a Middle School in Okinawa are participating in the Chocolate Drive.

Carmella Geer, 10 Wood Road, addressed the Council explaining that

Middletown does participate in Operation Holiday Cheer. Mrs. Geer also noted that there are two organizations that will transport the chocolate overseas.

Councillor VonVillas expressed concern that the Council is spending too much time on this item.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

**4. Application of All Island Landscape, Inc., Portsmouth, Rhode Island, for a Drain Layers License for the 2010-2011 licensing year.
(NEW)**

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license.

5. Memorandum of Council President, with enclosures, re: Complete Streets Act 2009 and Resolution.

Council President Semonelli reviewed the Complete Streets Act.

Kathleen Connell, representing AARP, addressed the Council requesting support for this legislation.

Vice Chairman Cambra noted the sidewalks on West Main Road and the great effort by Kathleen Connell on behalf of AARP.

Councillor Santos noted concern with the location of the telephone poles on the West Main Road sidewalks.

Councillor Silveira noted the legislation is complex and recommends

that the matter be referred to the Planning Board.

Councillor Bozyan and Councillor VonVillas noted their agreement with Councillor Silveira.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to forward this resolution to the Planning Board for review.

Abel Collins, Sierra Club Program Manager, addressed the Council requesting support for the Complete Streets resolution.

6. Resolution of the Council, re: Supporting and encouraging the use of the “Complete Streets” concept in the planning and redevelopment of transportation related to infrastructure improvements within the Town.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to forward this resolution to the Planning Board for review.

7. Memorandum of Council President, with enclosures, re: Letters to Congressional Delegation and Congress – Freight Rail Infrastructure Capacity Expansion Act, HR 1806 & S 3749.

Council President Semonelli noted the purpose of the Freight Rail Infrastructure Capacity Expansion Act, explaining that freight rail reduces emissions from trucks and requests to send a letter of support for this concept.

Councillor Silveira expressed concern that there are no railways on the Island and noted that he will not support this matter.

On motion of Vice Chairman Cambra, duly seconded, it was voted

unanimously to receive said memorandum.

8. Resolution of the Council, re: Authorizing the Council President to draft and submit letters on behalf of the Council regarding the Freight Rail Infrastructure Capacity Expansion Act., HR 1806 & S 3749.

Vice Chairman Cambra expressed concern that this matter may not have been reviewed by Town Administration.

Town Administrator Shawn Brown noted that there may not be a railway on the Island, however; this item should be considered for regional consequences of freight. The area may benefit residents that work for railway companies.

Councillor VonVillas suggested the matter should be sent to the Planning Board.

On motion of Vice Chairman Cambra, duly seconded, it was voted to pass said resolution; Council President Semonelli, Vice Chairman Cambra and Councillor Sylvia voted YES; Councillors Bozyan, Santos, Silveira and VonVillas voted NO to said motion; MOTION FAILED TO PASS.

9. Memorandum of Councillor Sylvia, re: Senior Citizens Center – Safety Issue.

Item was number 1.

10. Memorandum of Town Administrator, with enclosures, re: Award of Contract - 2010 Catch Basin Repairs.

Town Administrator Shawn Brown explained that there are twenty catch basins the Town, which the Town is unable to repair.

Antone Viveiros, 110 Indian Hill Road, expressed concern that there was no documentation on the website pertaining to this item.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

11. Resolution of the Council, re: Award of Contract – 2010 Catch Basin Repairs.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

12. Memorandum of Town Administrator, with enclosures, re: Proposal for Design – LTCP – Esplanade 1 Outfall Redirection.

Town Administrator Shawn Brown reviewed his memorandum entered here:

Robert Rafferty, representing Woodard & Curran, noted that this is a continuation of work previously completed to reduce bacterial contamination.

Town Administrator Shawn Brown explained that this is a major project, Public Works has increased street sweeping within the Town. The project will reduce the possibility of beach closures.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

13. Resolution of the Council, re: Award of Contract for Design – LTCP – Esplanade 1 Outfall Redirection.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

14. Memorandum of Town Administrator, with enclosures, re: Proposal – Construction – Wave Avenue Pump Station – Check valve modification & enhancement and rail & lift system.

Town Administrator Shawn Brown reviewed his memorandum entered here:

Antone Viveiros, 110 Indian Hill Road, expressed concern that there was no documentation on the website pertaining to this item.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

**15. Resolution of the Council, re: Award of Contract for Construction
– Wave Avenue Pump Station - Check valve modification &
enhancement and rail & lift system. (Documentation to follow)**

**On motion of Vice Chairman Cambra, duly seconded, it was voted
unanimously to pass said resolution.**

16. Memorandum of Councillor Sylvia, re: Town Solicitor Billing Rate.

Councillor Sylvia reviewed the memorandum entered here:

**On motion of Vice Chairman Cambra, duly seconded, it was voted
unanimously to receive said memorandum.**

Councillor Silveira noted that the matter is not appropriate to discuss at this time, it should be discussed with the next Council.

Councillor VonVillas noted that she does not agree; the Solicitor works for the Council and will support a reasonable increase.

Councillor Sylvia noted his recommendation to increase the rate to \$150.00.

Antone Viveiros, 110 Indian Hill Road, addressed the Council explaining that the Solicitor should have requested more money at the time of the last election.

Councillor VonVillas requests the increase to begin in January.

Vice Chairman Cambra noted that he does not support this explaining that the matter should be reviewed during budget time.

Town Administrator Shawn Brown explained that every year at budget time, it is said it's not the right time for the discussion; tonight may be a good time to discuss this matter in anticipation of the election.

On motion of Councillor Sylvia, duly seconded, it was voted to increase the Town Solicitors hourly rate to \$150., Council President Semonelli and Councillors Bozyan, Sylvia and VonVillas voted YES; Vice Chairman Cambra and Councillors Santos and Silveira voted NO to said motion.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to

personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

Arleen Kaull, 27 Willow Avenue, addressed the Council noting concern that political activity by Town employees is illegal. Mrs. Kaull requested an opinion from Town Solicitor Michael Miller.

Town Solicitor Michael Miller noted that political activity is allowed on one's own time.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 9:25 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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